



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Date: August 25, 2014

Mr. Richard W. Hancock, P.E.
Manager, Project Development and Environmental
Analysis Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

SUBJECT: EPA Review Comments of the Federal Supplemental Final Environmental Impact Statement for the Proposed US 17, Hampstead Bypass and Military Cutoff road Extension, New Hanover and Pender Counties, TIP Nos.: R-3300 and U-4751; CEQ No.: 20140219

Dear Mr. Hancock:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject document and is providing comments in accordance with Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The North Carolina Department of Transportation (NCDOT) and the U.S. Army Corps of Engineers (USACE) propose to construct a 17.8 mile multi-lane facility on new location with an additional interchange for the previously selected US 17 alternative and potentially 5.2 miles of recommended service roads.

EPA is a participating member of the NEPA/Section 404 Merger team for this proposed project. EPA provided review comments to the Supplemental Draft Environmental Impact Statement (SDEIS) on December 16, 2013, and on the DEIS on November 15, 2011. The USACE and NCDOT have responded to EPA's comments on pages 5-20 to 5-20, and pages 5-51 to 5-68 in the Supplemental Final EIS (SFEIS), respectively.

EPA does not concur on a number of the responses provided to our previously identified environmental concerns, including the NEPA/Section 404 Merger team selection of the least environmentally damaging practicable alternative (LEDPA) for the R-3300/US 17 Hampstead Bypass portion of the project. The USACE has attempted to make a distinction between the Merger team USACE's representative's concurrence on LEDPA with the Section 404 permitting determination of a LEDPA (e.g., Page S-2 footnote). This project specific approach appears to contradict the intent of the multi-agency 2005 Memorandum of Understanding (MOU) regarding the selection of the LEDPA and agencies abiding by concurrence point decisions during the streamlined and combined NEPA/Section 404 process.

EPA acknowledges the USACE's regulations at 33 CFR Part 325, Appendix B, Number 9(5) and its stated role as being 'neither an opponent nor proponent for the applicant's proposal'. EPA also notes that the Merger team has not concurred upon all of the locations of the proposed service roads for the US 17 Hampstead Bypass (Page 2-49, Page 2 of 4 Green sheet commitment, et al) and that the NCDOT will seek formal concurrence from the Merger team after all of the options have been explored. EPA has a significant process issue with requesting Merger team concurrence following the issuance of this SFEIS. Furthermore, recent design changes proposed by NCDOT for the Lendire Road improvements extend outside of the project study area boundary which was decided at the CP 1 Purpose and Need meeting. This new extension encompasses an additional 36 acres and potentially changes some of the human resources impacts.

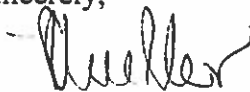
EPA acknowledges the revised project commitments and Concurrence Point 4A form for avoidance and minimization dated April 16, 2014, for the U-4751 portion of the project. A complete summary of total project impacts based upon current designs is identified in Table S-1. EPA has also summarized and characterized these impacts from the various sections of the SFEIS in Attachment A (See Attachment A).

The SFEIS does not include a Conceptual Mitigation Plan as requested by the EPA in previous correspondence for the unavoidable and substantial jurisdictional impacts. Section 4.5.4.1.2 on compensatory mitigation provides the same general approach as previous NEPA documents. The requirements for borrow materials that might be needed for the proposed project are also not provided and potential impacts to jurisdictional resources is not analyzed for nor disclosed in the FSEIS (Page 4-83). The NCDOT and USACE have separated this very likely project related activity to potential future permit actions under Section 404. Past projects in the coastal areas of N.C. have included this activity and the potential for additional jurisdictional impacts during the NEPA/Section 404 Merger team process.

In summary, EPA's concerns with the proposed project as previously identified from the DEIS and SDEIS have not been fully addressed and should be further discussed in the Record of Decision (ROD). Please notify us of additional Merger team activities for this proposed project. Please provide a copy of the ROD when it becomes available and the resolution of outstanding issues involving protected species with the U.S. Fish and Wildlife Service (e.g., a copy of the Biological Opinion).

Please feel free to contact Mr. Christopher Militscher of my staff at militscher.chris@epa.gov or 404-562-9512 should you have any questions concerning these comments.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office

Attachment A

Cc: S. McClendon, USACE, w/attachment
B. Shaver, USACE, w/attachment
M. Herndon, NCDENR w/attachment
G. Jordan, USFWS w/attachment

Attachment A
Summary of Preferred Alternative Impacts
Supplemental Final Environmental Impact Statement
US 17, Hampstead Bypass and Military Cutoff Road Extension, New Hanover and Pender
Counties, TIP Nos.: R-3300 and U-4751

From EPA's detailed review of the SFEIS, the proposed NCDOT's U-4751/R-3300 preferred alternative and the USACE's 'Merger LEDPA' impacts in total are:

Terrestrial communities: 1,006 acres (including 546.6 acres to terrestrial forests)
Gamelands and Preservation (including mitigation sites) Areas: 4.3 acres
100-year Floodplain and Floodways: 33.1 acres
Prime and Unique Farmland Soils: 501 acres
Residential relocations: 60 (including 3 minority owned)
Business relocations: 35
Non-profit relocations: 3 (including 1 minority owned and the Pender County EMS property)
Historic properties: 1 (adverse effect)
Archeological resources: 1 (adverse effect)
Noise receptors: 232 (including 4 churches, schools or parks)
Community facilities: 2 (including the Topsail Elementary, Middle and High schools wastewater treatment plant and Pender County recycling center)
Streams: 22,552 linear feet (including 20.72 acres to High Quality Waters: HQW, ORW and WS Protected or Critical Areas)
Wetlands: 261.2 acres
Other surface waters: 5.8 acres
Federally protected species: 4 (May affect, likely to Adversely Affect)
Cemeteries: 2
Potential UST/Hazardous Material Sites: 6

The proposed cost of the Preferred Alternative (M1+E+H) is \$458.9 million, or \$42.4 million more than EPA's environmentally-preferred alternative M1+U (which has lower wetland and stream impacts, less surface water impacts, less mitigation site impacts, less prime farmland impacts, less 100-year floodplain impacts, less terrestrial forest impacts, less High Quality Waters impacts, less potential UST/Hazardous material site impacts, and less indirect and cumulative impacts to jurisdictional resources, wildlife habitat and other natural resources).